

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CITY OF PORT ISABEL, et.al.,

Petitioners,

v.

FEDERAL ENERGY REGULATORY
COMMISSION,

Respondent,

and

RIO BRAVO PIPELINE COMPANY, LLC,
and RIO GRANDE LNG, LLC

Respondent-Intervenors.

Nos. 23-1174(L), 23-1175 (consolidated)

On Petitions for Review of Orders of the Federal Energy Regulatory Commission

**MOTION OF THE LIPAN APACHE TRIBE OF TEXAS FOR
INVITATION TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF
INTERVENOR RIO GRANDE LNG, LLC'S PETITION FOR REHEARING
OR REHEARING EN BANC**

Jarod R. Stewart
Brent M. Hanson
Steptoe LLP
717 Texas Ave. Ste. 2800
Houston, TX 77002
(713) 221-2300
jstewart@steptoe.com
bhanson@steptoe.com

*Counsel for the Lipan Apache Tribe
of Texas*

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29, and D.C. Circuit Rule 26.1, the Lipan Apache Tribe of Texas states that it is not a corporation and therefore has no corporate ownership to disclose.

Dated: October 28, 2024

Respectfully submitted,

/s/ Brent M. Hanson

Brent M. Hanson

Steptoe LLP

717 Texas Avenue, Suite 2800

Houston, Texas 77002

Telephone: (713) 221-2300

Facsimile: (713) 221-2320

bhanson@steptoe.com

*Counsel for the Lipan Apache Tribe
of Texas*

**MOTION FOR INVITATION TO FILE BRIEF AS *AMICUS CURIAE* IN
SUPPORT OF INTERVENOR RIO GRANDE LNG, LLC’S PETITION FOR
REHEARING OR REHEARING EN BANC**

Pursuant to Federal Rule of Appellate Procedure 29(b)(2) and D.C. Circuit Rule 35(f), the Lipan Apache Tribe of Texas requests an invitation to submit a brief as *amicus curiae* in support of Intervenor Rio Grande LNG, LLC’s Petition for Rehearing or Rehearing En Banc. (Document No. 2081045.) *See, e.g.*, Order, *New Jersey Conservation Foundation v. FERC*, No. 23-1064 (Doc. 2080348) (D.C. Cir. Oct. 17, 2024) (granting invitation to file brief as *amici curiae* in support of intervenor’s petition for panel rehearing and rehearing en banc); Order, *United Mine Workers of Am. v. Energy W. Mining Co.*, No. 20-7054 (Doc. 1962268) (D.C. Cir. Sept. 6, 2022) (same); Order, *PHH Corp. v. CFPB*, No. 15-1177 (Doc. 1661675) (D.C. Cir. Feb. 16, 2017) (same); Order, *Nat’l Ass’n of Mfrs. v. SEC*, No. 13-5252 (Doc. 1582585) (D.C. Cir. Nov. 9, 2015) (same); Order, *Elec. Power Supply Ass’n v. FERC*, No. 11-1486 (Doc. 1512775) (D.C. Cir. Sept. 17, 2014) (same).

Respondents Federal Energy Regulatory Commission, and Respondents-Intervenors Rio Bravo Pipeline Company, LLC and Rio Grande LNG, LLC do not oppose this motion. Petitioners oppose the motion.

The amicus brief conditionally submitted to the Court with this motion adheres to the 2,600-word limit found at Federal Rule of Appellate Procedure 29(b)(4).

As grounds for this motion, Movant states:

The Lipan Apache Tribe is a

sovereign Native American Tribe in the state of Texas . . . tasked with promoting the general welfare and justice for the Lipan Apache people; acquiring resources for the benefit of its people; protecting the Tribe's Native American heritage . . . ; preserving, securing, and exercising all the inherent sovereign rights and powers of a Native American tribe; and continuing relations with the United States of America and the State of Texas.

Our Sacred History: Who We Are, Official Website of the Lipan Apache Tribe, <https://www.lipanapache.org/AboutUs.html> (last visited Oct. 10, 2024). Many of the Lipan Apache members live and work near the proposed site of the Rio Grande LNG, LLC (“Rio Grande LNG”) liquified natural gas project. In accordance with its mission to promote the general welfare and justice for the Lipan Apache people, the Lipan Apache Tribe believes that the Rio Grande LNG project and Rio Bravo Pipeline Company, LLC pipeline project (collectively, “Rio Grande”) will provide significant economic benefits and opportunities to the Tribe's members in the Rio Grande Valley. The Tribe believes that the project will aid in lifting its members out of poverty and will raise the standard of living for many in the Rio Grande Valley community. As detailed in the Tribe's proposed *amicus* brief, the Court's decision strips away these crucial benefits and thereby harms the Lipan Apache tribe-members.

The Tribe further has an interest in stewarding the earth and its resources. The Tribe believes that Rio Grande is committed to preserve and protect the environment and wildlife, and that Rio Grande's plans, as approved by the Federal Energy Regulatory Commission, will adequately protect and steward the earth's resources. The Lipan Apache Tribe recognizes the genuine efforts and meaningful engagement by Rio Grande with the Tribe, and the Tribe believes that Rio Grande will steward the environment while executing the project.

In supplement to Rio Grande's petition, the Lipan Apache Tribe's views as a member of the environmental justice community are relevant and beneficial to the Court's consideration of the Petition for Rehearing because the Court's decision was premised on supposed harms to the environmental justice community. The Tribe is composed of "American Indians" and a significant portion of its membership is low-income, both of which are protected by the CEQ and EPA guidance and recommendations pertaining to environmental justice. Council on Environmental Quality, Environmental Justice, Guidance Under National Environmental Policy Act, at 25 (Dec. 10, 1997) (CEQ 1997 Environmental Justice Guidance), <https://www.epa.gov/environmentaljustice/ceq-environmental-justice-guidance-under-national-environmental-policy-act>. The Tribe's view, unrepresented in this proceeding other than through the outreach of Rio Grande, has largely been disregarded by the Court despite the Court's holding that further environmental

justice must be done. Accordingly, the Tribe believes the Court will benefit from its voice as an environmental justice community directly affected by the project but that is also a proponent of the project and its significant economic benefits.

CONCLUSION

The Lipan Apache Tribe accordingly requests that the Court grant its motion and invite the Tribe to file an *amicus* brief. The Tribe's proposed brief as *amicus curiae* in support of Intervenor Rio Grande LNG's petition for rehearing or rehearing en banc is attached to this motion.

Dated: October 28, 2024

Respectfully submitted,

/s/ Brent M. Hanson

Jarod R. Stewart

Brent M. Hanson

Steptoe LLP

717 Texas Avenue, Suite 2800

Houston, Texas 77002

Telephone: (713) 221-2300

Facsimile: (713) 221-2320

jstewart@steptoe.com

bhanson@steptoe.com

*Counsel for the Lipan Apache Tribe
of Texas*

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f) and Circuit Rule 32(e)(1), this document contains 745 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Office Word in 14pt Times New Roman font.

Dated: October 28, 2024

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/s/ Brent M. Hanson

Brent M. Hanson

Steptoe LLP

717 Texas Avenue, Suite 2800

Houston, Texas 77002

Telephone: (713) 221-2300

Facsimile: (713) 221-2320

bhanson@steptoe.com

*Counsel for the Lipan Apache Tribe
of Texas*

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 25, I, Brent M. Hanson, hereby certify that on October 28, 2024, I caused a true and correct copy of a copy of the foregoing document to be served on all parties of record via the CM/ECF system for the District of Columbia Circuit.

Dated: October 28, 2024

Respectfully submitted,

/s/ Brent M. Hanson

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Steptoe LLP

717 Texas Avenue, Suite 2800

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